



JUDICIARY OF
ENGLAND AND WALES

His Honour Judge Peter Johnson

Resident Judge of Exeter Crown Court
Honorary Recorder of Exeter

To all court users

8 April 2020

Exeter Crown Court: position and intended course

1. The last few weeks have required rapid responses in almost every area of the criminal justice system, with a number of often ingenious quick fixes put in place to keep the system going. It has reminded me of one of my clients giving evidence in a trial - he simply made it up as he went along. We have all had to do that recently to deal with a remarkable, dynamic, situation. While recognising that all have been affected by events - some considerably more than others - it is vitally important that fairness and justice are not subsumed by short term expedience.
2. This is for information and general guidance. We already have a considerable number of binding rules, directions and protocols. Resident Judges have been asked to refrain from issuing protocols. In any event, such documents are frequently superseded within hours or days. The deluge of instructions has now abated. What follows is just a situation report as to where we are, and where we hope to go.
3. For the last fortnight in Exeter we have been severely constrained in what we have been able to do because of staff shortages and, to a lesser extent, IT training issues and VL slots. Urgent custody cases e.g. appeals against conviction have also had an impact. Some of those constraints remain.

4. L ■ has been the only clerk in the building and has performed heroically. She is very grateful for the support she has received from practitioners. T ■ and C ■ have had to self-isolate. It had been expected that they would be able to support L ■ by working remotely from home via laptops. Alas, the laptops have yet to arrive but are expected this week. All being well this will increase our capacity for remote hearings.

5. G ■ is only able to work 3 days a week because of his family responsibilities. He will work from Wednesday to Friday. He has coped magnificently with a massively increased workload. I know that all will have done what they can to help him, by limiting emails to a minimum, and we are grateful for that. He too is due to get a laptop.

6. Our heartfelt thanks go to all the staff here for doing what they have done and continue to do. It is important that their health is not overlooked or compromised, particularly those whose attendance at court is essential to keep things going. Your patience, and keeping emails to an essential minimum, will be appreciated by all.

7. Training on Skype and its linking up with PVL took place last week and it now appears to be working in a satisfactory way. A lot of work is being done by MOJ on what could be a significant piece of digital kit to provide a virtual hearing room. A demonstration was held in Exeter yesterday.

8. The lockdown at HMP Exeter has caused problems but I am told that they will still accommodate VL conferences. There is a shortage of slots, but I am aware that some lawyers are coming to the Court to use the video booths here. If liaison takes place with the court, it may be possible to book a 'link slot' where the PVL is beamed to a closed courtroom with the lawyer joining by Skype.

9. As you know, the magistrates' court moved in to the court building last Monday, ahead of the planned date. The building works to accommodate the permanent move are being delayed by the lockdown. Presently, this does not pose a problem as we have spare courts to meet the needs of the magistrates. Arguably, it

presents an opportunity - as we have a manned cell area and can take bail cases where it is essential to do so.

10. For everyone's sake we need to do as much as we can to keep the wheels turning using the resources we have. Not only is this to flatten the rapidly developing 'case sombrero' but also to ensure, as best we can, that we have a viable criminal justice system at the end of this tunnel.

11. Thus far, we have had to concentrate on custody cases, but from the week after next our optimistic intention is to start to list more bail cases in order to make inroads into those cases adjourned from the list over the last two weeks. This will wholly depend on staffing and the availability and capability of HMCTS laptops. Staff are taking on new tasks e.g. the setting up of remote hearings.

12. Remote hearings will require careful preparation and liaison to ensure that as much work as possible is done before the hearing and DCS updated. We all know that remote hearings are tiring for all participants. Defendants on bail will be expected to attend by telephone or Skype where possible.

13. It will help all concerned if, after discussions between the parties, the court is given as much notice as possible about the direction the case is likely to take. It will also help if any case awaiting trial capable of resolution can be identified and brought to the court's attention.

14. If a bail PTPH is to be a guilty plea, then an indication of plea will be noted, any necessary PSR ordered and the case listed for plea and sentence after 6-7 weeks in the first instance.

15. If a not guilty plea is entered at a bail PTPH then stages will be set and a trial date in early 2021 identified, unless there is a pressing need to hear the trial earlier.

16. Custody PTPHs will continue as normal. For not guilty pleas, stages will be set and trial date normally set within the CTL. If it is to be a guilty plea, then sentence will take place unless a

PSR is required or other good reason and in that case will be adjourned for 3-4 weeks.

17. The demands on HMP Exeter are such that we often only have from 1000-1200 for the PVLs. These time constraints mean that it will be often be extremely difficult to accommodate a PVL conference immediately before or after a remote hearing and it should not be assumed that it can be done.

18. Cases are generally being listed with 30 minute slots in order to allow time to set up hearings etc. Therefore, if sentencing is to be requested in a custody case: a) notice of this must be given in advance of the day of hearing; b) it would be helpful if mitigation is 'pre-loaded' in a short skeleton and then added to in succinct oral submissions, where revelation rather than repetition should be the order of the day!

19. There remains a nationwide practical problem over the sentencing of most bailed defendants. It has been confirmed that a defendant coming to court is necessary travel and not prohibited by any government direction.

20. However, while we are an open court and any defendant may physically attend if they wish, it seems to me that until the lockdown is lifted it will not usually be appropriate to require defendants to attend court. Some sentence cases may be suitable for remote sentencing. Any proposed solutions to this (or any other problems) will be gratefully received.

21. Other than the direction about trials not being heard in April, I am afraid I know no more as to when they will resume. Continuity of advocate will be a significant factor in the restart listing process.

22. In short, we will continue to hear cases when we can. We will continue to assist where we can. If there are problems or if you have particular concerns, let me know. In these challenging times co-operation, good humour and remaining safe are crucial.

23. Thank you again for what you have done and what you are doing. You have all shown commendable professionalism and grit.

24. I hope you all stay well and look forward to seeing you all again soon.

Yours sincerely,

Peter Johnson